

Bureau of Export Administration, Commerce

§ 770.2

(x) Evidence of the item being exhibited at a trade fair in a foreign country, particularly for the purpose of inducing sales of the item to the foreign country;

(xi) A copy of the export control laws or regulations of the source country, showing that the item is not controlled; or

(xii) A catalog or brochure indicating the item is for sale in a specific country.

(2) *Foreign (non-U.S.) source:*

(i) Names of foreign manufacturers of the item including, if possible, addresses and telephone numbers;

(ii) A report from a reputable source of information on commercial relationships that a foreign manufacturer is not linked financially or administratively with a U.S. company;

(iii) A list of the components in the U.S. item and foreign item indicating model numbers and their sources;

(iv) A schematic of the foreign item identifying its components and their sources;

(v) Evidence that the item is a direct product of foreign technology (e.g., a patent law suit lost by a U.S. producer, a foreign patent);

(vi) Evidence of indigenous technology, production facilities, and the capabilities at those facilities; or

(vii) Evidence that the parts and components of the item are of foreign origin or are exempt from U.S. licensing requirements by the parts and components provision § 732.4 of the EAR.

(3) *Sufficient quantity:*

(i) Evidence that foreign sources have the item in serial production;

(ii) Evidence that the item or its product is used in civilian applications in foreign countries;

(iii) Evidence that a foreign country is marketing in the specific country an item of its indigenous manufacture;

(iv) Evidence of foreign inventories of the item;

(v) Evidence of excess capacity in a foreign country's production facility;

(vi) Evidence that foreign countries have not targeted the item or are not seeking to purchase it in the West;

(vii) An estimate by a knowledgeable source of the foreign country's needs; or

(viii) An authoritative analysis of the worldwide market (i.e., demand, production rate for the item for various manufacturers, plant capacities, installed tooling, monthly production rates, orders, sales and cumulative sales over 5-6 years).

(4) *Comparable quality:*

(i) A sample of the foreign item;

(ii) Operation or maintenance manuals of the U.S. and foreign items;

(iii) Records or a statement from a user of the foreign item;

(iv) A comparative evaluation, preferably in writing, of the U.S. and foreign items by,

for example, a western producer or purchaser of the item, a recognized expert, a reputable trade publication, or independent laboratory;

(v) A comparative list identifying, by manufacturers and model numbers, the key performance components and the materials used in the item that qualitatively affect the performance of the U.S. and foreign items;

(vi) Evidence of the interchangeability of U.S. and foreign items;

(vii) Patent descriptions for the U.S. and foreign items;

(viii) Evidence that the U.S. and foreign items meet a published industry, national, or international standard;

(ix) A report or eyewitness account, by deposition or otherwise, of the foreign item's operation;

(x) Evidence concerning the foreign manufacturers' corporate reputation;

(xi) Comparison of the U.S. and foreign end item(s) made from a specific commodity, tool(s), device(s), or technical data; or

(xii) Evidence of the reputation of the foreign item including, if possible, information on maintenance, repair, performance, and other pertinent factors.

SUPPLEMENT NO. 2 TO PART 768—ITEMS ELIGIBLE FOR EXPEDITED LICENSING PROCEDURES [RESERVED]

PART 770—INTERPRETATIONS

Sec.

770.1 Introduction.

770.2 Item interpretations.

770.3 Interpretations related to exports of technology and software to destinations in Country Group D:1.

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, August 22, 2001.

§ 770.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part provides commodity, technology, and software interpretations. These interpretations clarify the scope of controls where such scope is not readily apparent from the Commerce Control List (CCL) (see Supplement No. 1 to part 774 of the EAR) and other provisions of the Export Administration Regulations.

§ 770.2 Item interpretations.

(a) *Interpretation 1: Anti-friction bearing or bearing systems and specially designed parts.* (1) Anti-friction bearings or bearing systems shipped as spares or

replacements are classified under Export Control Classification Numbers (ECCNs) 2A001, 2A002, 2A003, 2A004, 2A005, and 2A006 (ball, roller, or needle-roller bearings and parts). This applies to separate shipments of anti-friction bearings or bearing systems and anti-friction bearings or bearing systems shipped with machinery or equipment for which they are intended to be used as spares or replacement parts.

(2) An anti-friction bearing or bearing system physically incorporated in a segment of a machine or in a complete machine prior to shipment loses its identity as a bearing. In this scenario, the machine or segment of machinery containing the bearing is the item subject to export control requirements.

(3) An anti-friction bearing or bearing system not incorporated in a segment of a machine prior to shipment, but shipped as a component of a complete unassembled (knocked-down) machine, is considered a component of a machine. In this scenario, the complete machine is the item subject to export license requirements.

(b) *Interpretation 2: Classification of “parts” of machinery, equipment, or other items—(1) An assembled machine or unit of equipment is being exported.* In instances where one or more assembled machines or units of equipment are being exported, the individual component parts that are physically incorporated into the machine or equipment do not require a license. The license or general exception under which the complete machine or unit of equipment is exported will also cover its component parts, provided that the parts are normal and usual components of the machine or equipment being exported, or that the physical incorporation is not used as a device to evade the requirement for a license.

(2) *Parts are exported as spares, replacements, for resale, or for stock.* In instances where parts are exported as spares, replacements, for resale, or for stock, a license is required only if the appropriate entry for the part specifies that a license is required for the intended destination.

(c) *Interpretation 3: Wire or cable cut to length.* (1) Wire or cable may be included as a component of a system or piece of equipment, whether or not the

wire or cable is cut to length and whether or not it is fitted with connectors at one or both ends, so long as it is in normal quantity necessary to make the original installation of the equipment and is necessary to its operation.

(2) Wire or cable exported as replacement or spares, or for further manufacture is controlled under the applicable wire or cable ECCN only. This includes wire or cable, whether or not cut to length or fitted with connectors at one or both ends.

(d) *Interpretation 4: Telecommunications equipment and systems.* Control equipment for paging systems (broadcast radio or selectively signalled receiving systems) is defined as circuit switching equipment in Category 5 of the CCL.

(e) *Interpretation 5: Numerical control systems—(1) Classification of “Numerical Control” Units.* “Numerical control” units for machine tools, regardless of their configurations or architectures, are controlled by their functional characteristics as described in ECCN 2B001.a. “Numerical control” units include computers with add-on “motion control boards”. A computer with add-on “motion control boards” for machine tools may be controlled under ECCN 2B001.a even when the computer alone without “motion control boards” is not subject to licensing requirements under Category 4 and the “motion control boards” are not controlled under ECCN 2B001.b.

(2) *Export documentation requirement.* (i) When preparing a license application for a numerical control system, the machine tool and the control unit are classified separately. If either the machine tool or the control unit requires a license, then the entire unit requires a license. If either a machine tool or a control unit is exported separately from the system, the exported component is classified on the license application without regard to the other parts of a possible system.

(ii) When preparing the Shipper’s Export Declaration (SED), a system being shipped complete (i.e., machine and control unit), should be reported under the Schedule B number for each machine. When either a control unit or a machine is shipped separately, it

should be reported under the Schedule B number appropriate for the individual item being exported.

(f) *Interpretation 6: Parts, accessories, and equipment exported as scrap.* Parts, accessories, or equipment that are being shipped as scrap should be described on the SED in sufficient detail to be identified under the proper ECCN. When commodities declared as parts, accessories, or equipment are shipped in bulk, or are otherwise not packaged, packed, or sorted in accordance with normal trade practices, the Customs Officer may require evidence that the shipment is not scrap. Such evidence may include, but is not limited to, bills of sale, orders and correspondence indicating whether the commodities are scrap or are being exported for use as parts, accessories, or equipment.

(g) *Interpretation 7: Scrap arms, ammunition, and implements of war.* Arms, ammunition, and implements of war, as defined in the U.S. Munitions List, and are under the jurisdiction of the U.S. Department of State (22 CFR parts 120 through 130), except for the following, which are under the jurisdiction of the Department of Commerce:

(1) Cartridge and shell cases that have been rendered useless beyond the possibility of restoration to their original identity by means of excessive heating, flame treatment, mangling, crushing, cutting, or by any other method are “scrap”.

(2) Cartridge and shell cases that have been sold by the armed services as “scrap”, whether or not they have been heated, flame-treated, mangled, crushed, cut, or reduced to scrap by any other method.

(3) Other commodities that may have been on the U.S. Munitions List are “scrap”, and therefore under the jurisdiction of the Department of Commerce, if they have been rendered useless beyond the possibility of restoration to their original identity only by means of mangling, crushing, or cutting. When in doubt as to whether a commodity covered by the Munitions List has been rendered useless, exporters should consult the Office of Defense Trade Controls, U.S. Department of State, Washington, DC 20520, or the Exporter Counseling Division, Office of Exporter Services, Room 1099A, U.S.

Department of Commerce, Washington, DC 20230, before reporting a shipment as metal scrap.

(h) *Interpretation 8: Military automotive vehicles and parts for such vehicles—(1) Military automotive vehicles.* (i) For purposes of U.S. export controls, military automotive vehicles “possessing or built to current military specifications differing materially from normal commercial specifications” may include, but are not limited to, the following characteristics:

(A) Special fittings for mounting ordnance or military equipment;

(B) Bullet-proof glass;

(C) Armor plate;

(D) Fungus preventive treatment;

(E) Twenty-four volt electrical systems;

(F) Shielded electrical system (electronic emission suppression); or

(G) Puncture-proof or run-flat tires.

(ii) *Automotive vehicles fall into two categories.*

(A) *Military automotive vehicles on the Munitions List, new and used.* Automotive vehicles in this category are primarily combat (fighting) vehicles, with or without armor and/or armament, “designed for specific fighting function.” These automotive vehicles are licensed for export by the U.S. Department of State (22 CFR parts 120 through 130).

(B) *Military automotive vehicles not on the U.S. Munitions List, new and used.* Automotive vehicles in this category are primarily transport vehicles designed for non-combat military purposes (transporting cargo, personnel and/or equipment, and/or for to wing other vehicles and equipment over land and roads in close support of fighting vehicles and troops). These automotive vehicles are licensed for export by the U.S. Department of Commerce.

(iii) *Parts for military automotive vehicles.* Functional parts are defined as those parts making up the power train of the vehicles, including the electrical system, the cooling system, the fuel system, and the control system (brake and steering mechanism), the front and rear axle assemblies including the wheels, the chassis frame, springs and shock absorbers. Parts specifically designed for military automotive vehicles on the Munitions List are licensed

for export by the U.S. Department of State (22 CFR parts 120 through 130).

(iv) *General instructions.* Manufacturers of non-Munitions List automotive vehicles and/or parts will know whether their products meet the conditions described in this paragraph (h). Merchant exporters and other parties who are not sure whether their products (automotive vehicles and/or parts) meet these conditions should check with their suppliers for the required information before making a shipment under general exception or submitting an application to BXA for a license.

(2) [Reserved]

(i) *Interpretation 9: Aircraft, parts, accessories and components.* Aircraft, parts, accessories, and components defined in Categories VIII and IX of the Munitions List are under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). All other aircraft, and parts, accessories and components therefor, are under the export licensing authority of the U.S. Department of Commerce. The following aircraft, parts, accessories and components are under the licensing authority of the U.S. Department of Commerce:

(1) Any aircraft (except an aircraft that has been demilitarized, but including aircraft specified in paragraph (i)(2) of this section) that conforms to a Federal Aviation Agency type certificate in the normal, utility, acrobatic, transport, or restricted category, provided such aircraft has not been equipped with or modified to include military equipment, such as gun mounts, turrets, rocket launchers, or similar equipment designed for military combat or military training purposes.

(2) Only the following military aircraft, demilitarized (aircraft not specifically equipped, reequipped, or modified for military operations):

- (i) Cargo, bearing designations "C-45 through C-118 inclusive," and "C-121";
- (ii) Trainers, bearing a "T" designation and using piston engines;
- (iii) Utility, bearing a "U" designation and using piston engines;
- (iv) Liaison, bearing an "L" designation; and
- (v) Observation, bearing an "O" designation and using piston engines.

(3) All reciprocating engines.

(4) Other aircraft engines not specifically designed or modified for military aircraft.

(5) Parts, accessories, and components (including propellers), designed exclusively for aircraft and engines described in paragraphs (i)(1), (i)(2), (i)(3), and (i)(4) of this section.

(6) General purpose parts, accessories, and components usable interchangeably on either military or civil aircraft.

(j) *Interpretation 10: Civil aircraft inertial navigation equipment.* (1) The Department of Commerce has licensing jurisdiction over exports and reexports to all destinations of inertial navigation systems, inertial navigation equipment, and specially designed components therefor for "civil aircraft".

(2) The Department of State, retains jurisdiction over all software and technology for inertial navigation systems and navigation equipment, and specially designed components therefor, for shipborne use, underwater use, ground vehicle use, spaceborne use or use other than "civil aircraft".

(k) *Interpretation 11: Precursor chemicals.* The following chemicals are controlled by ECCN 1C350. The appropriate Chemical Abstract Service Registry (C.A.S.) number and synonyms (i.e., alternative names) are included to help you determine whether or not your chemicals are controlled by this entry.

- (1) (C.A.S. #1341-49-7) Ammonium hydrogen bifluoride
 - Acid ammonium fluoride
 - Ammonium bifluoride
 - Ammonium difluoride
 - Ammonium hydrofluoride
 - Ammonium hydrogen bifluoride
 - Ammonium hydrogen difluoride
 - Ammonium monohydrogen difluoride
- (2) (C.A.S. #7784-34-1) Arsenic trichloride
 - Arsenic (III) chloride
 - Arsenous chloride
 - Fuming liquid arsenic
 - Trichloroarsine
- (3) (C.A.S. #76-93-7) Benzoic acid
 - .alpha.,.alpha.-Diphenyl-.alpha.-hydroxyacetic acid
 - Diphenylglycolic acid
 - .alpha.,.alpha.-Diphenylglycolic acid
 - Diphenylhydroxyacetic acid
 - .alpha.-Hydroxy-2,2-diphenylacetic acid

Bureau of Export Administration, Commerce

§ 770.2

- 2-Hydroxy-2,2-diphenylacetic acid
.alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid
Hydroxydiphenylacetic acid
(4) (C.A.S. #107-07-3) 2-Chloroethanol
2-Chloro-1-ethanol
Chloroethanol
2-Chloroethyl alcohol
Ethene chlorohydrin
Ethylchlorohydrin
Ethylene chlorohydrin
Ethylene chlorohydrin
Glycol chlorohydrin
Glycol monochlorohydrin
2-Hydroxyethyl chloride
(5) (C.A.S. #78-38-6) Diethyl ethylphosphonate Ethylphosphonic acid diethyl ester
(6) (C.A.S. #15715-41-0) Diethyl methylphosphonite
Diethoxymethylphosphine
Diethyl methanephosphonite
0,0-Diethyl methylphosphonite
Methyldiethoxyphosphine
Methylphosphonous acid diethyl ester
(7) (C.A.S. #2404-03-7) Diethyl-N, N-dimethylphosphoro-amidate
N,N-Dimethyl-O,O'-diethyl phosphoramidate
Diethyl dimethylphosphoramidate
Dimethylphosphoramidic acid diethyl ester
(8) (C.A.S. #762-04-9) Diethyl phosphite
Diethoxyphosphine oxide
Diethyl acid phosphite
Diethyl hydrogen phosphite
Diethyo phosphonate
Hydrogen diethyl phosphite
(9) (C.A.S. #100-37-8) N, N-Diethylethanolamine
N,N-Diethyl-2-aminoethanol
Diethyl (2-hydroxyethyl) amine
N,N-Diethyl-N-(.beta.-hydroxyethyl) amine
N,N-Diethyl-2-hydroxyethylamine
Diethylaminoethanol
2-(Diethylamino) ethanol
2-(Diethylamino)ethyl alcohol
N,N-Diethylmonoethanolamine
(2-Hydroxyethyl) diethylamine
2-Hydroxytriethylamine
(10) (C.A.S. #5842-07-9) N,N-Diisopropyl-.beta.-aminoethane thiol
2-(Diisopropylamino) ethanethiol
Diisopropylaminoethanethiol
.beta.-Diisopropylaminoethanethiol
2-(bis(1-Methylethyl)amino) ethanethiol
(11) (C.A.S. #4261-68-1) N, N-Diisopropyl-2-aminoethyl chloride hydrochloride
(12) (C.A.S. #96-80-0) N,N-Diisopropyl-.beta.-aminoethanol
N,N-Diisopropyl-2-aminoethanol
2-(Diisopropylamino) ethanol
(N,N-Diisopropylamino) ethanol
2-(Diisopropylamino) ethyl alcohol
N,N-Diisopropylethanolamine
(13) (C.A.S. #96-79-7) N,N-Diisopropyl-.beta.-aminoethyl chloride
2-Chloro-N,N-diisopropylethanolamine
1-Chloro-N,N-diisopropylaminoethane
2-Chloro-N,N-diisopropylethylamine
N-(2-chloroethyl)-N-(1-methylethyl)-2-propanamine
N-(2-Chloroethyl) diisopropylamine
N,N-Diisopropyl-2-chloroethylamine
1-(Diisopropylamino)-2-chloroethane
2-(Diisopropylamino)ethyl chloride
Diisopropylaminoethyl chloride
.beta.-Diisopropylaminoethyl chloride
(14) (C.A.S. #108-18-9) Diisopropylamine
N,N-Diisopropylamine
N-(1-Methylethyl)-2-propanamine
(15) (C.A.S. #6163-75-3) Dimethyl ethylphosphonate
Dimethyl ethanephosphonate
Ethylphosphonic acid dimethyl ester
(16) (C.A.S. #756-79-6) Dimethyl methylphosphonate
Dimethoxymethyl phosphine oxide
Dimethyl methanephosphonate
Methanephosphonic acid dimethyl ester
Methylphosphonic acid dimethyl ester
(17) (C.A.S. #868-85-9) Dimethyl phosphite
Dimethoxyphosphine oxide
Dimethyl acid phosphite
Dimethyl hydrogen phosphite
Dimethyl phosphonate
Hydrogen dimethyl phosphite
Methyl phosphate
(18) (C.A.S. #124-40-3) Dimethylamine
N-Methyl methanamine
(19) (C.A.S. #506-59-2) Dimethylamine hydrochloride
Dimethylammonium chloride
N-Methyl methanamine hydrochloride
(20) (C.A.S. #57856-11-8) O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL)

§ 770.2

15 CFR Ch. VII (1–1–02 Edition)

- Methylphosphonous acid 2-(bis(1-methylethyl)amino)ethyl ethyl ester
- (21) (C.A.S. #1498–40–4) Ethylphosphonous dichloride
Dichloroethylphosphine
Ethyl phosphonous dichloride
Ethyl dichlorophosphine
- (22) (C.A.S. #430–78–4) Ethylphosphonous difluoride
Ethyl difluorophosphine
- (23) (C.A.S. #1066–50–8) Ethylphosphonyl dichloride
Dichloroethylphosphine oxide
Ethanephosphonyl chloride
Ethylphosphinic dichloride
Ethylphosphonic acid dichloride
Ethylphosphonic dichloride
- (24) (C.A.S. #753–98–0) Ethylphosphonyl difluoride
Ethyl difluorophosphite
Ethyl difluorophosphine oxide
Ethylphosphonic difluoride
- (25) (C.A.S. #7664–39–3) Hydrogen fluoride
Anhydrous hydrofluoric acid
Fluorhydric acid
Fluorine monohydride
Hydrofluoric acid gas
- (26) (C.A.S. #3554–74–3) 3-Hydroxyl-1-methylpiperidine
3-Hydroxy-N-methylpiperidine
1-Methyl-3-hydroxypiperidine
N-Methyl-3-hydroxypiperidine
1-Methyl-3-piperidinol
N-Methyl-3-piperidinol
- (27) (C.A.S. #76–89–1) Methyl benzilate
Benzilic acid methyl ester
.alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid methyl ester
Methyl .alpha.-phenylmandelate
Methyl diphenylglycolate
- (28) (C.A.S. #676–83–5) Methylphosphonous dichloride
Dichloromethylphosphine
Methyldichlorophosphine
Methylphosphorus dichloride
- (29) (C.A.S. #753–59–3) Methylphosphonous difluoride
Difluoromethylphosphine
Methyldifluorophosphine
- (30) (C.A.S. #676–97–1) Methylphosphonyl dichloride
Dichloromethylphosphine oxide
Methanephosphonodichloridic acid
Methanephosphonyl chloride
Methylphosphonic acid dichloride
Methylphosphonic dichloride
- Methylphosphonodichloridic acid
Methylphosphonyl chloride
- (31) (C.A.S. #676–99–3) Methylphosphonyl difluoride
Difluoromethylphosphine oxide
Methyl difluorophosphite
Methylphosphonic difluoride
- (32) (C.A.S. #10025–87–3) Phosphorus oxychloride
Phosphonyl trichloride
Phosphoric chloride
Phosphoric trichloride
Phosphoroxychloride
Phosphoroxyltrichloride
Phosphorus chloride oxide
Phosphorus monoxide trichloride
Phosphorus oxide trichloride
Phosphorus oxytrichloride
Phosphorus trichloride oxide
Phosphoryl trichloride
Trichlorophosphine oxide
Trichlorophosphorus oxide
- (33) (C.A.S. #10026–13–8) Phosphorus pentachloride
Pentachlorophosphorane
Pentachlorophosphorus
Phosphoric chloride
Phosphorus(V) chloride
Phosphorus perchloride
- (34) (C.A.S. #1314–80–3) Phosphorus pentasulfide
Diphosphorus pentasulfide
Phosphoric sulfide
Phosphorus persulfide
Phosphorus sulfide
- (35) (C.A.S. #7719–12–2) Phosphorus trichloride
Phosphorus chloride
Trichlorophosphine
- (36) C.A.S. #75–97–8) Pinacolone
tert-Butyl methyl ketone
2,2-Dimethyl-3-butanone
3,3-Dimethyl-2-butanone
2,2-Dimethylbutanone
3,3-Dimethylbutanone
1,1-Dimethylethyl methyl ketone
Methyl tert-butyl ketone
Pinacolin
Pinacolone
1,1,1-Trimethylacetone
- (37) (C.A.S. #464–07–3) Pinacolyl alcohol
tert-Butyl methyl carbinol
2,2-Dimethyl-3-butanol
3,3-Dimethyl-2-butanol
1-Methyl-2,2-dimethylpropanol
- (38) (C.A.S. #151–50–8) Potassium cyanide
- (39) (C.A.S. #7789–23–3) Potassium fluoride

Bureau of Export Administration, Commerce

§ 770.2

- Potassium monofluoride
 (40) (C.A.S. #7789-29-9) Potassium hydrogen fluoride
 Hydrogen potassium difluoride
 Hydrogen potassium fluoride
 Potassium acid fluoride
 Potassium bifluoride
 Potassium hydrogen difluoride
 Potassium monohydrogen difluoride
 (41) (C.A.S. #1619-34-7) 3-Quinuclidinol
 1-Azabicyclo(2.2.2)octan-3-ol
 3-Hydroxyquinuclidine
 (42) (C.A.S. #3731-38-2) 3-Quinuclidinone
 1-Azabicyclo(2.2.2)octan-3-one
 3-Oxyquinuclidine
 Quinuclidone
 (43) (C.A.S.) #1333-83-1 Sodium bifluoride
 Sodium hydrogen difluoride
 Sodium hydrogen fluoride
 (44) (C.A.S. #143-33-9) Sodium cyanide
 (45) (C.A.S. #7681-49-4) Sodium fluoride
 Sodium monofluoride
 (46) (C.A.S. #1313-82-2) Sodium sulfide
 Disodium monosulfide
 Disodium sulfide
 Sodium monosulfide
 Sodium sulphide
 (47) (C.A.S. #10025-67-9) Sulfur Monochloride
 (48) (C.A.S. #10545-99-0) Sulfur dichloride
 (49) (C.A.S. #111-48-8) Thiodiglycol
 Bis(2-hydroxyethyl) sulfide
 Bis(2-hydroxyethyl) thioether
 Di(2-hydroxyethyl) sulfide
 Diethanol sulfide
 2,2'-Dithiobis(ethanol)
 3-Thiapentane-1,5-diol
 2,2'-Thiobisethanol
 2,2'-Thiodiethanol
 Thiodiethylene glycol
 2,2'-Thiodiglycol
 (50) C.A.S. #7719-09-7 Thionyl chloride
 Sulfinyl chloride
 Sulfinyl dichloride
 Sulfur chloride oxide
 Sulfur oxychloride
 Sulfurous dichloride
 Sulfurous oxychloride
 Thionyl dichloride
 (51) (C.A.S. #102-71-6) Triethanolamine
 Alkanolamine 244
 Nitrilotriethanol
 2,2',2''-Nitrilotriethanol
 2,2',2''-Nitrilotris(ethanol)
 TEA
 TEA (amino alcohol)
 Tri (2-hydroxyethyl) amine
 Triethanolamin
 Tris (.beta.-hydroxyethyl) amine
 Tris (2-hydroxyethyl) amine
 Trolamine
 (52) (C.A.S. #637-39-8) Triethanolamine hydrochloride
 (53) (C.A.S. #122-52-1) Triethyl phosphite
 Phosphorous acid triethyl ester
 Triethoxyphosphine
 Tris(ethoxy)phosphine
 (54) (C.A.S. #121-45-9) Trimethyl phosphite
 Phosphorus acid trimethyl ester
 Trimethoxyphosphine
 (1) *Interpretation 12: Computers.* (1) Digital computers or computer systems classified under ECCN 4A003.a, .b, or .c, that qualify for "No License Required" (NLR) must be evaluated on the basis of CTP alone, to the exclusion of all other technical parameters. Computers controlled in this entry for MT reasons are not eligible for License Exception CTP regardless of the CTP of the computer. Digital computers or computer systems classified under ECCN 4A003.a, .b, or .c that qualify for License Exception CTP must be evaluated on the basis of CTP, to the exclusion of all other technical parameters, except for parameters of Missile Technology concern, or ECCN 4A003.e (equipment performing analog-to-digital conversions exceeding the limits in ECCN 3A001.a.5.a). This License Exception does not authorize the export or reexport of computers controlled for MT purposes regardless of the CTP. Assemblies performing analog-to-digital conversions are evaluated under Category 3—Electronics, ECCN 3A001.a.5.a.
 (2) Related equipment classified under ECCN 4A003.d, .e, .f, or .g may be exported or reexported under License Exceptions GBS or CIV. When related equipment is exported or reexported as part of a computer system, NLR or License Exception CTP is available for the computer system and the related equipment, as appropriate.
 (m) *Interpretation 13: Encryption software controlled for EI reasons.* Encryption software controlled for EI reasons under ECCN 5D002 may be preloaded on a laptop and exported under the tools of trade provision of License Exception TMP or the personal use exemption under License Exception BAG,

subject to the terms and conditions of such License Exceptions. This provision replaces the personal use exemption of the International Traffic and Arms Regulations (ITAR) that existed for such software prior to December 30, 1996. Neither License Exception TMP nor License Exception BAG contains a reporting requirement.

(n) *Interpretation 14: Encryption commodity and software reviews.* Classification of encryption commodities or software is required to determine eligibility for certain licensing mechanisms (see §§ 740.13(e) and 740.17 of the EAR) and exports to subsidiaries of U.S. companies (see § 740.17(b)(1) of the EAR). Note that subsequent bundling, patches, upgrades or releases, including name changes, may be exported or re-exported under the applicable provisions of the EAR without further review as long as the functional encryption capacity of the originally reviewed product has not been modified or enhanced. This does not extend to products controlled under a different category on the CCL.

[61 FR 12920, Mar. 25, 1996, as amended at 61 FR 67450, Dec. 23, 1996; 62 FR 6686, Feb. 12, 1997; 62 FR 25469, 25470, May 9, 1997; 63 FR 50525, Sept. 22, 1998; 65 FR 62609, Oct. 19, 2000; 66 FR 49525, Sept. 28, 2001]

§ 770.3 Interpretations related to exports of technology and software to destinations in Country Group D:1.

(a) *Introduction.* This section is intended to provide you additional guidance on how to determine whether your technology or software would be eligible for a License Exception, may be exported under NLR, or require a license, for export to Country Group D:1.

(b) *Scope of licenses.* The export of technology and software under a license is authorized only to the extent specifically indicated on the face of the license. The only technology and software related to equipment exports that may be exported without a license is technology described in §§ 734.7 through 734.11 of the EAR; operating technology and software described in § 740.13(a) of the EAR; sales technology described in § 740.13(b) of the EAR; and software updates described in § 740.13(c) of the EAR.

(c) *Commingle technology and software.* (1) U.S.-origin technology does not lose its U.S.-origin when it is redrawn, used, consulted, or otherwise commingled abroad in any respect with other technology of any other origin. Therefore, any subsequent or similar technical data prepared or engineered abroad for the design, construction, operation, or maintenance of any plant or equipment, or part thereof, which is based on or utilizes any U.S.-origin technology, is subject to the EAR in the same manner as the original U.S.-origin technology, including license requirements, unless the commingled technology is not subject to the EAR by reason of the *de minimis* exclusions described in § 734.4 of the EAR.

(2) U.S.-origin software that is incorporated into or commingled with foreign-origin software does not lose its U.S.-origin. Such commingled software is subject to the EAR in the same manner as the original U.S.-origin software, including license requirements, unless the commingled software is not subject to the EAR by reason of the *de minimis* exclusions described in § 734.4 of the EAR.

(d) *Certain License Exception.* The following questions and answers are intended to further clarify the scope of technology and software eligible for a License Exception.

(1)(i) *Question 1.* (A) Our engineers, in installing or repairing equipment, use techniques (experience as well as proprietary knowledge of the internal componentry or specifications of the equipment) that exceed what is provided in the standard manuals or instructions (including training) given to the customer. In some cases, it is also a condition of the license that such information provided to the customer be constrained to the minimum necessary for normal installation, maintenance and operation situations.

(B) Can we send an engineer (with knowledge and experience) to the customer site to perform the installation or repair, under the provisions of License Exception TSU for operation technology and software described in § 740.13(a) of the EAR, if it is understood that he is restricted by our normal business practices to performing